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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

TRAN, KHOA H

ART UNIT PAPER NUMBER

3634

DATE MAILED: 06/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/625,228

Applicant(s)

CAPLAN ET AL.

Examiner

Khoa Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10-17-01, 03-05-02, and 04-09-02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-21, 23, 37-45, 50 and 52-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-19, 23, 37-42, 44, 45, 50, 52 and 55-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 20, 21, 43, 53 and 54 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Drawings

Applicants' remarks regarding the missing reference numerals on the drawings are persuasive and thus the drawings objection is withdrawn.

Election/Restrictions

Applicant's election without traverse of Species I in Paper No. 14 is acknowledged. Accordingly, claims 20, 21, 43, 53 and 54 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 50, 52, and 55-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 50, 52, and 55-58, it is unclear to which structures in the claims constitute the male coupling and the female coupling. In particular, applicants set forth both structures for the male coupling, i.e., the mechanism that is extended from the base and a slot located through the base, and at the same time set forth the same mechanism that is extended from the base is to be the female coupling.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15, 17, 19, 37, 40, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Deutsche Patent No. DE9313107. The claims are of such breadth that they read on the CD rack of Deutsche Patent No. DE9313107. Deutsche Patent No. DE9313107 discloses a plurality of injection-moldable holders forming a continuous fan out loop by interlocking with the adjacent holders, the holder comprising a plurality of one unitary piece of holders, each holder having a first and second spaced-apart walls (10) that configure to form a slot therebetween to retain an object therein, see Figure 8a. The first holder having a base (24) that has a male engaging mechanism (21) of a slot opening that leads into a circular inwardly curved aperture and the second holder having an outwardly extended female engaging mechanism of a distal end (23) that is shaped to be able to pass through a slot on the first holder and to be retained therein the circular aperture of the first holder's engaging mechanism. See Figures 5, 6 and 7b.

Claims 15, 17, 23, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by H. C. Smith. The claims are of such breadth that they read on the file cabinet of Smith. Smith discloses a plurality of holders forming a continuous fan out loop by interlocking with the adjacent holders, the holder comprising a plurality of one

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unitary piece holders (29), see Figure 6, each holder having a first and second spaced-apart walls that configure to form a slot therebetween to retaining an object therein. The first holder having a male engaging mechanism (21) of a slot opening (28) that projects outwardly from the holder, and the second holder having a female engaging mechanism of a projected hook end (27) with an inner and outer surfaces and it is shaped to be able to pass through a slot and to be retained by the first holder's engaging mechanism. See Figures 2 and 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 38, 39, 42, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deutsche Patent No. DE9313107 as applied to claims 15, 17, 19, 37, 40, and 41 above, and further in view of Callahan et al. Callahan et al. teach a flexible spring projection with an L-shaped slot (19-1 and 19-2, see Figures 4A-B and 5A), formed on the first and second walls of the holder. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the holder's sidewalls of Patent No. DE9313107 with the provision of flexible spring projections as taught by Callahan et al. in order to have the springs to secure the object that is placed therein the holder. With respect to the holder that is formed from injection molded

plastic, it should be noted that injection molding is notoriously old and well known per se in the industry of making a holder and plastic is a well-known material. Accordingly, it would have been no more than an obvious matter of engineering design choice to select the type of well-known material of plastic to produce the holder by a well-known process of injection molding base on the desire application thus producing no new matter and unexpected results because it is well within the level of skill of one of ordinary skill to utilize known features of the art for the purpose that they are known. With respect to claim 39, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the spaced-apart first and second walls to be approximately 5 inches for a particular application thus producing no new matters.

Claims 23, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deutsche Patent No. DE9313107 in view of Callahan et al. as applied to claims 15-19, 37-42, 44, and 45 above, and further in view of J. F. Dohrwardt. Dohrwardt teaches a plurality of holders connected together by the male and female coupling mechanisms. The first holder having a male coupling mechanism (17) extending from a base (14) and a through slot (16) located adjacent to the male coupling mechanism. The second holder having a female coupling (18) with an inner and outer surfaces and it is shaped to be received in the slot of the adjacent holder, wherein the male and the female couplings are interconnected with one another and to be seated in a groove between adjacent teeth on a sprocket. See Figures 1-3. It would have been obvious to one of ordinary skill in the art at the time of the invention was

made to modify the sprockets of the Deutsche Patent No. DE9313107 with the provision of toothed sprockets and to provide the holders with the provision of male and female coupling mechanisms as taught by Dohrwardt in order to have the toothed sprocket to rotate the connecting loop holders therebetween the teeth of the sprocket because it is well within the level of skill of one of ordinary skill to utilize known features of the art for the purpose for which they are known, thus the modification producing no unexpected results.

Claims 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deutsche Patent No. DE9313107 in view of Callahan et al. and J. F. Dohrwardt as applied to claims 15-19, 23, 37-42, 44, 45, 50, and 52 above, and further in view of H. C. Smith. Smith teaches a female hook engaging mechanism (27) having a round inner surface and a round outer surface. See Figures 3 and 6. It would have been an obvious matter of design choice to one of ordinary skill in the art to modify the female engaging mechanism of Dohrwardt with the provision of a hook engaging mechanism as taught by Smith in order to take play to connect and retain therein the slot of the male engaging mechanism, thus producing no new matter or unexpected results.

Response to Amendment

Applicants' arguments with respect to claims 15-19, 23, 37-42, 44-46, 50, 52, and 55-58 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claim 37, applicants' argues that the Deutsche Patent No. DE9313107 do not teach a male and female coupling mechanism located "on an inward

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surface of the base" is not commensurate with the scope of the claim. It should be noted the claim language is of such breath that it reads on the holder of Deutsche Patent No. DE9313107 as aforementioned above.

The new grounds of rejection were necessitated by applicant's amendment, e.g., "a slot located through said base", in claim 50, line 15, claim 52, line 10, claim 55, line 11, claim 56, line 12, claim 57, line 13, claim 58, line 12.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 8:30 A.M. to 7:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicant is hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

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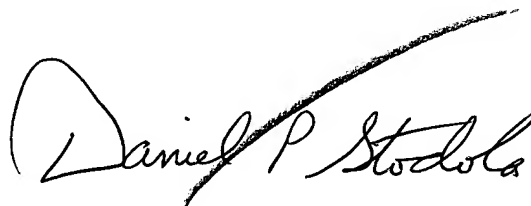
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Type or printed name of person signing this certificate:

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Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran
June 16, 2002

A handwritten signature in black ink, reading "Daniel P. Stodola". The signature is written in a cursive style with a large, sweeping initial "D" and a long, horizontal stroke extending from the end of the name.

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600